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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

L.C.,

Petitioner,

v.

THE SUPERIOR COURT OF SAN
DIEGO COUNTY,

Respondent;

SAN DIEGO COUNTY HEALTH AND
HUMAN SERVICES AGENCY,

Real Party in Interest.

D061610

(San Diego County
Super. Ct. No. J517952A/B/C)

PROCEEDINGS in mandate after referral to a Welfare and Institutions Code
section 366.26 hearing. David B. Oberholtzer, Judge. Petition denied. Request for stay
denied.

L.C. seeks review of a juvenile court order setting a hearing under Welfare and Institutions Code section 366.26.¹ L.C. contends the court erred when it found that reasonable services were offered or provided to her. We deny the petition.

FACTUAL AND PROCEDURAL BACKGROUND

L.C. is the mother of J.T., born March 2007, and twins G.T. and M.T., born March 2008 (together, the children).² The family came to the attention of the San Diego County Health and Human Services Agency (the Agency) in 2008 after receiving reports that L.C. repeatedly left the children unattended or with residents of the homeless shelter where she and the children were living. L.C.'s parenting skills were poor. The children were often left in soiled diapers.

L.C. participated in a voluntary services program from November 2008 to September 2009, including Regional Center and public health nurse services, respite care, counseling and in-home support and services. After receiving voluntary services, L.C.'s circumstances appeared to be more stable. However, the social worker said L.C.'s insight into the children's needs remained limited and she did not address domestic violence issues.

¹ Further statutory references are to the Welfare and Institutions Code.

² The children's father, J.T., notified this court that a petition for writ of mandate under California Rules of Court, rule 8.452, will not be filed because he had no viable issues for review. This court dismissed the case. J.T. is mentioned in this opinion only where relevant to the issues raised in L.C.'s petition for writ of mandate.

On October 8, 2010, the Agency detained the children in protective custody after J.T. was found to have multiple bruises to her abdomen and back consistent with having been hit with a stick or cord. L.C. acknowledged she hit J.T. with a sandal, and screamed at and hit the children. The children had developmental delays and behavioral issues.

L.C. said she had epilepsy and was often ill. She was taking anti-epileptic medication but suffered approximately two seizures a month.

Approximately two weeks before the March 2012 dispositional hearing, L.C.'s boyfriend assaulted her. L.C. suffered abrasions, swollen lips and other soft tissue injuries.

At the dispositional hearing, the court removed the children from parental custody and ordered a family reunification case plan. L.C.'s case plan required her to participate in general counseling, including a domestic violence prevention program, individual therapy with a court-approved therapist and parenting education.

In reports prepared for the six-month status review hearing, the social worker reported that L.C. was hospitalized on August 27. She was transferred to the Behavioral Psychiatric Unit on August 30 under section 5150 and released on September 28. L.C. was suffering from medical issues, including seizures, and possible psychological instability. The social worker was unable to obtain more specific information about L.C.'s physical and mental health conditions.

On September 14, the court ordered L.C. to undergo a psychological evaluation with a TERM³ provider, and ordered that the evaluation report not be distributed to any party without a court order.

L.C. met with the social worker on October 4. L.C. appeared confused. She misstated her birthdate and said a man was always following her. She saw his shadow. L.C. refused to provide the social worker with the medical documents she had with her. She also refused to sign an authorization to release her medical records to allow the social worker to initiate a referral for the court-ordered psychological evaluation.

The social worker asked L.C. to sign a medical release on October 7. L.C. refused.

L.C. signed a release for her medical records on November 2. The social worker completed the referral for the court-ordered psychological evaluation that day. In January 2012, after TERM provided the social worker with the name of the evaluator, the social worker scheduled the evaluation for January 30, 2012.

At the end of November, L.C.'s therapist discontinued services to L.C. The therapist reported that after the domestic violence incident, L.C. progressively became psychologically and socially unstable. She presented with signs of disorientation and mental confusion and reported problems with memory and concentration. L.C. would not sign a release of information to allow her therapist to obtain medical records about her

³ TERM is an acronym for Treatment and Evaluation Resources Management, a mental health program developed under the direction of the County of San Diego. One of TERMS' central functions is to select psychologists and psychiatrists on a rotating basis to perform formal evaluations that are ordered by the juvenile court. (<http://sandiego.networkofcare.org/mh/resources/term_docs.cfm>, as of July 6, 2012.)

psychiatric hospitalization. The therapist, who had a doctorate in Psychology (Psy.D.), believed L.C. was experiencing "Major Depressive Disorder with Psychotic Features" since approximately August 2011. Without effective treatment, her mental health condition would likely render her incapable of parenting her children. She was not able to take care of herself and was incapable of utilizing services to address the protective issues. The therapist recommended L.C. receive adult social services.

L.C. was hospitalized again on November 27, complaining of seizures and paralysis on her left side. A physical examination did not confirm L.C.'s report of weakness on the left leg. The neurologist recommended that L.C. have a "psych consult." She was not cooperative with the neurologic examination, which limited its diagnostic utility. L.C. had an MRI, which was normal.

L.C. appeared for the January 30, 2012 psychological evaluation on January 31. The social worker helped her reschedule the appointment for February 6. L.C. completed the evaluation that day.

The contested 12-month permanency hearing was held on February 10 and March 13, 2012. The court admitted the Agency's reports in evidence. L.C. offered a summary of her attendance at counseling services dated February 10, 2012, and a letter from the San Diego Justice Center, which the court received in evidence. As relevant here, the court heard testimony from the social worker and L.C.⁴

The social worker testified L.C. completed a parenting class but did not complete a domestic violence treatment program. L.C. did not maintain regular contact with the

⁴ The children's father called other witnesses to testify about his circumstances.

children. With respect to the court-ordered psychological examination, the social worker requested the evaluation the same day L.C. released her medical records. The provider required the medical records because L.C. had been hospitalized under section 5150. TERM provided the name of an evaluator in January 2012, and the social worker scheduled L.C.'s appointment. The social worker acknowledged "it took some time to set up the appointment."

L.C. testified she was currently living at a women's shelter and attending a domestic violence prevention program.

The juvenile court said L.C. never had any intention of taking responsibility for her mental health treatment. Every time she had a seizure or similar episode and was hospitalized, she did not follow up with treatment. The court did not know what the Agency could have done that the hospitals did not do, particularly with respect to medication. The court found that returning the children to L.C.'s care would be detrimental to their safety and well-being, and terminated reunification services. The court further found that reasonable services were offered or provided to L.C., and set a section 366.26 hearing.

L.C. petitioned for review of the court's order under California Rules of Court, rule 8.452. She requests this court reverse the order setting a section 366.26 hearing. This court issued an order to show cause, the Agency responded, and the parties waived oral argument.

DISCUSSION

A

L.C. contends she did not receive reasonable reunification services between September 14, 2011, when the court ordered her to undergo a psychological evaluation, and March 12, 2012, the date of the completion of the 12-month permanency review hearing. L.C. asserts the Agency did not take reasonable steps to help her complete the court-ordered evaluation and therefore she, the Agency and the juvenile court did not obtain critical information about her mental health in a timely manner. She argues the lack of information about her mental health condition resulted in a case plan that was not commensurate with her needs.

B

Family reunification services play a critical role in dependency proceedings. (§ 361.5; *In re Alanna A.* (2005) 135 Cal.App.4th 555, 563 (*Alanna A.*); *In re Joshua M.* (1998) 66 Cal.App.4th 458; see 42 U.S.C. § 629a(a)(7).) Services "may include provision of a full array of social and health services to help the child and family and to prevent reabuse of children." (§ 300.2.) At each review hearing, the court is required to determine the "extent of the agency's compliance with the case plan" in making reasonable efforts to return the child to a safe home. (§ 366, subd. (a)(1)(B).) If reasonable services are not provided or offered to the parent, the court is required to continue the case for the period of time permitted by statute. (See § 366.21, subds. (e) & (g)(1).)

Reunification services should be tailored to the particular needs of the family. (*David B. v. Superior Court* (2004) 123 Cal.App.4th 768, 793 (*David B.*), citing *In re Alvin R.* (2003) 108 Cal.App.4th 962, 972.) "The standard is not whether the services provided were the best that might be provided in an ideal world, but whether the services were reasonable under the circumstances." (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

To support a finding reasonable services were offered or provided, "the record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained *reasonable* contact with the parents during the course of the service plan, and made *reasonable* efforts to assist the parents in areas where compliance proved difficult" (*In re Riva M.* (1991) 235 Cal.App.3d 403, 414.) The "adequacy of reunification plans and the reasonableness of the [Agency's] efforts are judged according to the circumstances of each case." (*Robin V. v. Superior Court* (1995) 33 Cal.App.4th 1158, 1164.)

We review a reasonable services finding to determine if it is supported by substantial evidence. (*In re Christina L.* (1992) 3 Cal.App.4th 404, 414.) We review the evidence most favorably to the prevailing party and indulge in all legitimate and reasonable inferences to uphold the court's ruling. (*In re Misako R.*, *supra*, 2 Cal.App.4th at p. 545.) The burden is on the petitioner to show the evidence is insufficient to support the juvenile court's findings. (*In re L.Y.L.* (2002) 101 Cal.App.4th 942, 947.)

L.C. complains the reunification case plan was not adequately tailored to meet her needs because the Agency delayed implementing a court-ordered psychological evaluation for her and therefore did not have critical information about her mental health needs. (*David B.*, *supra*, 123 Cal.App.4th at p. 793.) We are not persuaded by her argument.

The record shows that the social worker worked diligently to persuade L.C. to authorize the release of information needed to obtain her medical records and make a referral for the court-ordered psychological evaluation. L.C. signed the medical release authorization approximately six weeks after the court ordered a psychological evaluation. According to the social worker, it took TERM approximately two months to find an evaluator for L.C.⁵ The record shows when TERM notified the social worker, she promptly set up the appointment and assisted L.C. in rescheduling the appointment when L.C. appeared for the evaluation on the wrong date.

L.C.'s therapist noted L.C.'s mental health condition started deteriorating in August 2011. L.C. was hospitalized under section 5150 from August 27 to September 28, 2011. We infer her physical and mental health conditions were evaluated and treated by appropriate medical personnel and she was advised of any necessary or recommended treatment, including evaluation of any side effects of her anti-seizure medication. Despite the social worker's requests, L.C. chose not to release any information concerning her physical or mental health condition to her. When L.C. was hospitalized

⁵ The record does not reflect any reason for this delay.

again in November 2011, medical personnel recommended a "psych consult." L.C. had another opportunity to obtain an evaluation. The social worker attempted to learn whether that evaluation had occurred, without success.

L.C. cannot prevail on her complaint the family reunification case plan was not narrowly tailored to her needs. The social worker made reasonable efforts to obtain additional information about L.C.'s physical and mental health and reasonably developed a case plan with the information that was available to her. Significantly, the record shows that L.C. had access to comprehensive medical care, including mental health consultations. She had spent four weeks in a Behavioral Psychiatric Unit, and chose not to provide information about her health condition to the social worker. Thus, L.C. had the critical information she now asserts was necessary to tailor her case plan to her needs and declined to provide it to the social worker. She cannot now complain that the social worker lacked critical information about her mental health condition.

L.C. received voluntary services from October 2008 to September 2009. When the Agency initiated dependency proceedings in October 2010, the social worker developed a case plan for L.C. L.C. was offered or provided services from approximately October 2010 to March 2012. She completed a parenting class in March 2011. Although services were offered, she did not participate in a domestic violence treatment program or maintain consistent contact with the children. Before her August 2011 hospitalization, L.C. saw a well-qualified therapist on a weekly basis for eight months. She received medical care, including psychiatric care. The record permits the reasonable inference L.C. received psychological and psychiatric assessments during her month-long

hospitalization and was offered appropriate treatment tools by medical personnel to help stabilize her physical and mental health conditions. It is an unwise use of scarce public resources to require the Agency to duplicate services a parent is readily able to access through other providers. (Cf. *Alanna A.*, *supra*, 135 Cal.App.4th at p. 566 ["Resources available to the juvenile court are not unlimited."].) Under the particular circumstances of this case, there is substantial evidence to support the finding that the services offered or provided to L.C. were reasonable. (*In re Misako R.*, *supra*, 2 Cal.App.4th at p. 547.)

DISPOSITION

The petition is denied. The request for stay is denied.

O'ROURKE, J.

WE CONCUR:

HALLER, Acting P.J.

McINTYRE, J.